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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,338	01/17/2003	Brian Francis Gray	AA431 F	1452

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EXAMINER

GIBSON, KESHIA L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

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APPLICATION NO/ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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10-089-338

EXAMINER

ART UNIT

PAPER

20050712

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Office Action Summary	Application No.	Applicant(s)	
	10/089,338	GRAY ET AL	
	Examiner	Art Unit	
	Keshia Gibson	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 5/6/05 have been fully considered but they are not persuasive. Applicant has argued:

1) Hanson-Shaw fails to disclose or suggest being treated with fluorochemicals, hydrophilic polymers, inorganic particles, or mixtures thereof. This additional limitation as presented in the amendment to the claims is addressed in the rejections below.

2) There is no motivation to combine the teachings of Hanson-Shaw, Mizutani, and Hilston et al. because they are directed toward different problems. However, Hanson-Shaw, Mizutani, Hilston et al. are analogous art because deal with absorbent products having release sheets which also serve to protect materials applied to the article prior to the article's use. Furthermore, the Examiner has relied on Hanson-Shaw for motivation to provide the article of Mizutani with a skin care layer for reduced skin irritation, as discussed in the previous action. Thus, the rejections of Mizutani in view of Hanson-Shaw are maintained. Additionally, the Examiner has relied on Hilston et al. for the motivation of provide the base sheet, which contacts the adhesive zone of the article, with fluorochemicals for improved adhesion properties, as discussed in the previous action.

Despite applicant's arguments, Hanson-Shaw et al., Mizutani, and Hilston et al. are still considered to provide combinations that render obvious the limitations set forth in previously presented Claims 1-10 and currently presented Claims 1-8 and 10 of the

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claimed invention, as presented in the previous Office Action (which has been modified and presented again, in view of applicant's amendments, below).

Specification

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

3. Claims 1 and 8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear as to what the applicant considers a "base sheet." Within the disclosure, the applicant has only disclosed that the barrier sheet may comprise a base sheet; and that the base sheet may further be made of paper or film and may be treated with a fluorochemical, or similar, composition (specification, page 61). In this case, it may have been assumed that an element that is part of the barrier sheet may be considered a base sheet. However, applicant has also disclosed that the barrier sheet may be any one of the main wrapper sheet 102, the flap adhesive cover 104, and the central portion cover 106 (page 20). The only other element comprising the wrapper 100

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is an adhesive tab 108 (Fig. 1). Moreover, it is unclear which structures of the claimed invention are considered analogous to a "base sheet" and if such elements are shown in the drawings.

Additionally, Claim 8 requires that the article further comprise a main wrapper sheet that compromises a portion of the barrier sheet. Again, due to the disclosure, it is unclear as to what structures of the claimed invention are considered analogous to the claimed "main wrapper sheet." Appropriate correction is required.

For purposes of the Office Action, a "base sheet" has been interpreted to be a component that is integral with or attached to a "barrier sheet." Examiner has considered main wrapper 102 to be the intended barrier sheet, the central portion sheet 106 to be the intended main wrapper sheet, and the central portion cover 106 or the flap adhesive cover 104 to be a base sheet.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim*** rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hansen (WO 98/42286).

In regard to currently amended Claim 1, Hansen discloses an absorbent article 20/50 having a body surface 20/520, a garment surface 26/530, an absorbent core 28/540,

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and a barrier sheet 25/125 (Figs. 5; page 5, lines 18-page 6, line 5; page 11, lines 1-30).

The absorbent article 20/520 further comprises an oil-based skin care composition provided thereon (page 20; lines 5-16; page 21, line 31-page 24, line 17). The barrier sheet 25/125 comprises a base sheet (25/125) that has been treated with silicone and polyvinyl alcohol (PVA), which would be a selection from the group consisting of fluorochemicals, hydrophilic polymers, inorganic particles, and mixtures thereof (page 20, lines 5-16).

In regard to Claim 2, the barrier sheet 25/125 is disposed to cover a portion of the article 20/50 and is capable of reducing the migration of the skin care composition (page 19, line 23- page 20, line 16).

In regard to Claim 3, the garment surface 26/530 comprises an adhesive (page 16, lines 10-31). The barrier sheet 25/125 extends over the topsheet, which is coextensive with the backsheet; as such the barrier sheet 25/125 is considered to cover the adhesive on the garment surface 26/530 (Figs. 1-5).

In regard to Claim 4, the article 20/50 has flaps 52 extending outwardly and having adhesive (page 16, line 32-page 17, line 27).

In regard to Claim 5, as discussed for Claim 3, the garment surface 26/530 comprises an adhesive; the adhesive secures the article 20/50 to a garment during use (page 16, lines 10-31).

In regard to Claim 6, see discussion for Claim 2.

In regard to Claim 7, the skin composition is provided on the body surface 20/520. Also see discussion for Claim 2.

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In regard to Claim 8, the barrier sheet 25/125 covers the topsheet for packaging of the article and as such may be considered a wrapper sheet that wraps the article individually (page 21, lines 17-29).

In regard to currently amended Claim 10, the base sheet 25/125 inherently has two surfaces. The base sheet is treated to be releasably attached to the body surface (page 18, line 26- page 21, line 29). Also, see discussion for Claim 1.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizutani (US 5,683,377) in view of Hanson-Shaw (GB 2,311,727) in further view of Hilston et. al. (US 5,720,739).

In regard to Claim 1, Mizutani discloses an absorbent article 1 having a body surface 3, a garment surface 4, an absorbent core 5, and a barrier sheet 2 (Figure 3). Mizutani does not expressly disclose that at least a portion of the absorbent article has a skin care composition provided thereon. As discussed earlier, Hanson-Shaw discloses an absorbent article comprising a skin component. Hanson-Shaw teaches that absorbent articles worn next to the skin may cause a rash, and goes on to teach adding a skin care composition to article in order to address such a problem (page 1, line 1—page 2, line 9). Mizutani and Hanson-Shaw are analogous arts because they are from the same field of endeavor (absorbent products dealing with the removal of waste from the body). It would have been obvious to modify the article of Mizutani to comprise a skin care composition on at least a portion of the article since doing so would reduce the occurrence of skin irritation to the wearer.

Also, Mizutani discloses that it is known in the art to provide a barrier sheet 2 (comprising release sheets 11 and 12) to protect adhesive zones 8, 9 from contamination (column 1, lines 14), but does not expressly disclose that the barrier sheet 2 is treated to reduce the migration of the skin composition. Hanson-Shaw teaches that interaction between skin compositions and adhesives can severely reduce the adhesive's quality so as to render the article unattachable to the wearer. Hanson-Shaw further teaches using a barrier sheet to overcome this problem; the barrier sheet 11 can be oil impermeable and covers the area comprising the skin care composition until ready for use (page 2, lines 11-15; page 3, lines 4-14). Thus, it would have been obvious to one of ordinary skill in the art to modify the barrier sheet of Mizutani to be

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treated to reduce the migration of skin care composition as taught by Hanson-Shaw since doing so would prevent adhesive zones from becoming contaminated by skin care compositions.

Mizutani does disclose that the barrier sheet comprises a base sheet 11. As discussed above, Mizutani and Hanson-Shaw together disclose the claimed invention except for the base sheet being treated with a composition comprising a component selected from the group consisting of fluorochemicals, hydrophilic polymers, inorganic particles, or mixtures thereof. The base sheet is releasably secured to the adhesive zone 8 of the article 1. Hilston et al. disclose an absorbent article having adhesion strips for securing the article to a person (abstract, Fig. 1). Mizutani, Hanson-Shaw, and Hilston et al are analogous arts because they are from the same field of endeavor (absorbent products dealing with the removal of waste from the body). Hilston et al. teach that it is known to use fluorochemicals to coat sheets/strips attached to adhesive areas in order to improve the adhesion of the sheet/sheet to the adhesive area (column 2, lines 59—column 3, line 6). Thus, it would have been obvious to one of ordinary skill in the art to modify Mizutani in view of Hanson-Shaw to have a base sheet comprising fluorochemicals since doing so would improve the adhesion properties between the base sheet and the adhesive zone.

In regard to Claim 2 and 6, as discussed above, Mizutani, Hanson-Shaw, and Hilston et al. disclose the invention of Claim 1. Hanson-Shaw further discloses the skin composition may be located on a portion of the article's inner surface and may be covered with a barrier sheet 11 (page 3, lines 4-14; page 5, lines 1-5). Hanson-Shaw

also discloses that the oil impermeable outer sheet (which is considered to be a barrier sheet) covers the underside-facing surface of the article 10 and prevents the skin composition from passing through the article 10 (page 5, lines 21-25).

In regard to Claim 3, Mizutani discloses that the article's garment-facing surface comprises an adhesive 8; the barrier sheet 2 (comprising release sheets 11 and 12) covers the adhesive 8 and is removed from adhesive prior to use of the article 1 (column 2, lines 43-45; column 2, lines 8-14).

In regard to Claims 4, Mizutani discloses side flaps 7 provided with an adhesive 9 on the garment-facing surface so that the flaps may be secured to the wearer's undergarment (Figure 3; column 1, lines 50-54; column 2, lines 39-48).

In regard to Claim 5, as discussed for Claim 3, Mizutani discloses that the garment surface comprises an adhesive 8; the adhesive is used to secure the article to the wearer (column 2, lines 39-45).

In regard to Claim 7, Hanson-Shaw discloses that the skin care composition may be located on the body surface (inner surface) of the article (page 3, lines 5-6) and the barrier sheet 11 covers the skin care composition (page 3, lines 13-14; column (page 5, lines 21-25).

In regard to Claim 8, Mizutani discloses that barrier sheet 2 serves as a main wrapper, which is used to individually wrap the article 1 (Figs. 1-2; column 2, line 51—column 3, line 9).

In regard to Claim 10, as discussed above, Mizutani, Hanson-Shaw, and Hilston et al. disclose the invention of Claim 3. The base sheet inherently has two surfaces. As

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discussed for Claim 1, thus, it would have been obvious to one of ordinary skill in the art to modify Mizutani in view of Hanson-Shaw to have a base sheet comprising fluorochemicals since doing so would improve the adhesion properties between the base sheet and the adhesive zone.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hansson (US 6,312,417).

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keshia Gibson whose telephone number is (571) 272-7136. The examiner can normally be reached on M-F 8:30 a.m. - 6 p.m., out every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Keshia Gibson
Examiner, Art Unit 3761
klg 7/12/05

TATYANA ZALUKAEVA
PRIMARY EXAMINER

